

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

MM STEEL, LP,	§	Civil Action No. 4:12-cv-01227
	§	
Plaintiff,	§	<u>KENNETH M. HOYT</u>
	§	Judge
v.	§	
	§	
RELIANCE STEEL & ALUMINUM CO.,	§	<u>Cynthia Horace</u>
CHAPEL STEEL CORP., AMERICAN	§	Case Manager
ALLOY STEEL, INC., ARTHUR J.	§	Court Reporter
MOORE, JSW STEEL (USA) INC., NUCOR	§	
CORP., AND SSAB ENTERPRISES, LLC	§	
D/B/A SSAB AMERICA	§	
	§	
Defendants.	§	

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**NOTICE OF THE DEFENDANTS' AMENDED OBJECTIONS TO PLAINTIFF'S  
DEPOSITION DESIGNATIONS**

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Having received MM Steel's Witness List and Deposition Designations as part of the Joint Pre-Trial Order, the Defendants submit the following objections and counter-designations to those designations. The Defendants' objections include testimony that ought to, in fairness, be read with the Plaintiff's designations, pursuant to Fed. R. Evid. 106 and Fed. R. Civ. Pro. 32(a)(6). Should the Court overrule any Fed. R. Evid. 106 and Fed. R. Civ. Pro. 32(a)(6) objection, the Defendants' add the testimony referenced in such objections to designations set forth in Part II, below.

Defendants reserve the right to call or introduce testimony from the following witnesses and any additional witnesses for the purposes of rebuttal or impeachment. In addition to the objections noted below, Defendants object to the designation of any testimony concerning an

exhibit to which Defendants have objected, including on the grounds that it is admissible against one or more Defendants but not against all Defendants.

### **I. Objections to Testimony Designated by Plaintiff**

#### **Deposition of Stanley Altman, May 24, 2013:**

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104	13	105	16	
106	5	106	7	
140	6	140	11	
142	1	142	23	No question designated - Fed. R. Civ. Pro 32(a)(6) (Include: 141:22-25)

#### **Deposition of Mike Martin, June 4, 2013:**

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32	18	33	22	Hearsay - FRE 802 as to 33:2-33:19
34	22	35	4	Hearsay – FRE 802
35	7	35	9	Hearsay – FRE 802
35	15	36	9	Hearsay – FRE 802
38	12	38	19	Hearsay – FRE 802

39	5	39	16	Hearsay – FRE 802
39	23	40	5	
40	7	40	11	
41	7	42	6	Hearsay - FRE 802 as to 41:7-19, 41:24-42:6
42	8	42	19	Hearsay – FRE 802
55	2	55	3	Hearsay – FRE 802; Subjection to Motion in Limine, Irrelevant - 401, 402, & 403
55	7	55	20	Hearsay – FRE 802; Subjection to Motion in Limine, Irrelevant - 401, 402, & 403
55	22	55	23	Hearsay – FRE 802; Subjection to Motion in Limine, Irrelevant - 401, 402, & 403
55	25	56	6	Hearsay – FRE 802; Subjection to Motion in Limine, Irrelevant - 401, 402, & 403
60	12	60	18	
60	22	61	25	
75	10	75	11	
75	15	76	3	Misleading, clarification of answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include: 76:4-9)
76	17	76	22	
77	9	77	22	
78	20	79	6	
79	11	79	11	
79	20	80	8	
80	17	81	1	
81	5	81	11	
81	13	81	17	
81	19	82	6	
91	15	92	3	Hearsay – FRE 802 or, in the alternative, Misleading, clarification of quotation not designated – FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 92:4-15)
93	2	93	10	Hearsay – FRE 802 or, in the alternative, Misleading, clarification of quotation not designated – FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 93:11-20)
93	21	94	14	Hearsay – FRE 802 or, in the alternative, Misleading, clarification of answer not designated – FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 94:15-95:15)
95	20	96	4	Hearsay – FRE 802
96	6	96	13	Hearsay – FRE 802
96	15	96	16	Hearsay – FRE 802

98	19	99	2	Misleading, clarification of answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include: 99:3-5)
99	12	99	16	
99	24	100	1	Vague and ambiguous - FRE 401, 402, 403
100	3	100	6	Vague and ambiguous - FRE 401, 402, 403
100	8	100	22	Hearsay – FRE 802 as to 100:16-22
100	24	100	25	Hearsay – FRE 802
101	2	101	6	Hearsay – FRE 802
101	8	101	10	Hearsay – FRE 802
101	21	101	25	Hearsay – FRE 802
102	2	102	3	Hearsay – FRE 802, or, in the alternative, Misleading, clarification of answer not designated – FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 102:14-21, 102:24-103:11)
123	7	123	18	
123	19	123	23	
124	24	125	19	
125	22	126	2	
126	6	126	19	
128	6	130	6	
180	19	181	13	Misleading, clarification not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 182:21-183:10)
194	7	194	8	
194	12	194	22	
194	24	195	9	
195	17	196	9	
197	18	199	1	
200	17	200	21	
200	24	201	1	
201	3	201	9	
205	2	205	21	
264	15	264	25	Hearsay – FRE 802
265	1	265	10	Hearsay – FRE 802
268	2	268	13	Hearsay – FRE 802, or, in the alternative, Misleading, question not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 267:20-24)

**Deposition of Gregory M. Nolan, September 18, 2013:**

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28	5	28	13	
28	19	28	21	
29	5	29	16	
29	21	29	21	
41	25	42	4	Vague, ambiguous – FRE 401, 402, & 403
42	22	42	24	
43	5	43	10	Vague, ambiguous – FRE 401, 402, & 403
43	16	44	6	Vague, ambiguous – FRE 401, 402, & 403 (as to 43:16, 44:5-7)
44	12	44	19	Vague, ambiguous – FRE 401, 402, & 403 (as to 44:12)
44	21	44	21	
45	7	47	14	Irrelevant, prejudicial – FRE 401, 402, & 403, subject to Motion in Limine
52	6	52	8	
53	7	53	9	
54	6	54	14	
54	24	55	3	
56	8	57	25	
60	25	61	1	
61	8	61	13	
61	18	61	20	
61	24	64	1	
64	21	64	22	Asked and answered – FRE 611
64	25	65	4	Asked and answered – FRE 611, or, in the alternative, Misleading, clarification not designated FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 65:5-12)
65	13	65	22	Irrelevant, prejudicial – FRE 401, 402, & 403, subject to Motion in Limine (as to 65:13-16), Asked and answered – FRE 611 (as to 65:20-22)
66	2	66	13	Asked and answered – FRE 611 (as to 62:2-3)

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66	17	67	9	
67	24	68	6	
68	13	69	1	Asked and answered – FRE 611 (as to 68:13-17) or, in the alternative, Misleading, question not designated, FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 68:7-68:8)
74	5	75	8	
75	10	75	13	Misleading, clarification to answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 75:14-17, 75:21-76:1)
76	7	76	10	Misleading, clarification to answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 76:11-17)
76	24	78	25	
81	2	81	18	Vague, ambiguous, asked and answered - FRE 401, 402, 403, & 611 (as to 81:15-18)
81	22	82	4	Vague, ambiguous, argumentative, asked and answered - FRE 401, 402, 403, & 611 (as to 81:22-24)
82	18	82	21	
82	23	82	24	Misleading, clarification to answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 82:25-83:4, 87:2-87:11)
88	4	88	11	
88	14	88	21	
89	10	89	20	Misleading, clarification to answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 89:21-90:2)
94	8	95	5	
98	18	99	3	
99	5	99	25	
103	4	103	8	
107	23	107	25	
108	7	108	9	
109	2	109	9	
110	4	110	13	
111	1	111	16	
117	11	117	21	Misleading, clarification to answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 117:22-118:14)
119	8	121	4	
122	22	123	9	Misleading, clarification to answer not designated - FRE

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				106, Fed. R. Civ. Pro. 32(a)(6) (Include 123:16-124:6)
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136	20	137	3	
137	23	138	4	
139	6	139	20	
140	18	141	13	Misleading, clarification to answer and subsequent line of questioning not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 141:14-18)
142	12	143	3	
143	7	143	11	
143	23	144	9	Misleading, clarification to answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 144:10-145:4)
146	18	147	16	
147	24	148	15	Asked and answered, argumentative - FRE 401, 402, 403, & 611 (as to 146:25-147:7)
149	22	150	15	
150	19	150	22	
150	24	151	2	
151	4	151	4	
157	10	157	14	Irrelevant, prejudicial, inflammatory - FRE 401, 402, & 403
157	20	158	1	Irrelevant, prejudicial, inflammatory - FRE 401, 402, & 403
158	7	158	18	Irrelevant, prejudicial, inflammatory - FRE 401, 402, & 403
159	14	159	16	Irrelevant, prejudicial, inflammatory - FRE 401, 402, & 403
159	18	159	20	Irrelevant, prejudicial, inflammatory - FRE 401, 402, & 403
160	8	160	10	
160	13	160	15	
161	1	161	20	
169	15	169	20	
171	9	171	14	
172	1	172	5	
174	1	174	9	Argumentative, prejudicial - FRE 401, 402, & 403
174	13	174	13	Argumentative, prejudicial - FRE 401, 402, & 403
174	17	174	18	
175	5	176	9	
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**Deposition of Christine Osvenar, September 17, 2013:**

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17	24	18	4	
19	6	19	13	(Include: 19:14 - 19:19)
22	16	22	21	Form: Lacks foundation – FRE 401, 402, 403, & 602 calls for speculation – FRE 401, 402, 403, & 602; exceeds scope of 30(b)(6) topics
22	24	23	10	Form: Lacks foundation – FRE 401, 402, 403; & 602 calls for speculation – FRE 602; exceeds scope of 30(b)(6) topics (Include: 23:11 – 23:25)
24	1	24	6	Form: Lacks foundation – FRE 401, 402, 403; & 602 calls for speculation – FRE 602; misstates testimony – FRE 403 & 603; incomplete hypothetical; failed to include errata portion
24	10	24	14	Form: Lacks foundation – FRE 401, 402, 403; & 602 calls for speculation – FRE 602; misstates testimony – FRE 403 & 603; incomplete hypothetical; failed to include errata portion (Include: 25:5 – 25:17)
26	20	27	7	(Include: 27:8 – 27:23)
27	24	28	3	Asked and answered – FRE 611
28	6	28	8	Asked and answered – FRE 611; Form: Lacks foundation – FRE 401, 402, 403, & 602; calls for speculation – FRE 602
28	15	28	25	
29	9	29	18	Form: Lacks foundation – FRE 401, 402, 403; & 602 calls for speculation – FRE 602
30	4	30	11	
40	15	40	24	(Include: 40:25 – 41:13)
41	14	41	22	(Include: 41:23 – 42:3)
42	22	43	4	Failed to include errata portion
44	25	45	10	



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56	10	56	14	
61	18	61	24	
64	6	64	10	
65	11	65	21	
66	5	66	14	(Include: 66:17 – 68:10)
68	11	68	21	(Include: 70:10 – 70:19; 71:5 – 71:17)
76	17	77	5	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; calls for legal conclusion – FRE 701
78	11	78	21	Form: Lacks foundation – FRE 401, 402 & 403, and 602; calls for speculation – FRE 602
81	11	82	17	(Include: 82:18 – 82:23)
84	2	84	7	(Include: 84:8 – 84:20)
89	2	89	11	
89	23	90	6	
90	19	90	21	(Include: 90:25 – 91:15)
91	16	91	21	
92	11	93	18	
93	23	93	24	
94	6	94	16	
95	23	96	15	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; misstates testimony – FRE 403 & 603; Hearsay – FRE 802
96	19	96	21	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; misstates testimony – FRE 403 & 603
104	4	105	20	
106	2	106	6	
106	20	107	1	
107	24	108	9	
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124	12	124	15	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602
124	24	125	15	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602
127	21	128	2	
129	24	130	1	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; misstates testimony – FRE 403 & 603
130	5	130	8	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; misstates testimony – FRE 403 & 603
130	23	131	21	
136	3	136	22	
137	11	139	20	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; misstates testimony – FRE 403 & 603
140	22	141	2	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; misstates testimony – FRE 403 & 603
141	6	141	24	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; misstates testimony – FRE 403 & 603 (Include: 143:1 – 143:12)
143	13	144	21	
147	22	148	9	(Include: 148:10 – 148:23)
154	12	154	16	
155	6	155	8	
156	9	156	20	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602
161	1	161	5	
161	19	161	25	
165	22	166	4	
166	8	166	23	
169	23	170	4	
170	7	171	7	

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173	7	173	24	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602
173	25	174	4	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602
174	8	174	12	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; misstates testimony – FRE 403 & 603
174	17	174	20	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; misstates testimony – FRE 403 & 603
176	12	176	15	
178	20	179	5	
180	10	180	21	
184	14	185	9	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602; misstates testimony - FRE 403 & 603
186	14	187	15	
187	19	188	19	
188	23	188	23	Form: Misstates testimony – FRE 401, 402, and 403
189	22	189	25	

**Deposition of Charles W. Schmitt, July 17, 2013:**

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11	20	12	1	
12	17	13	1	
13	24	14	1	
14	12	14	21	
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23	14	23	16	

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33	22	34	11	
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52	10	52	15	
53	14	54	14	Form: Lacks foundation – FRE 401, 402, 403, and 602; calls for speculation – FRE 602
54	16	54	24	Form: Lacks foundation – FRE 401, 402, 403, & 602; calls for speculation – FRE 602
55	16	57	14	Form: Calls for speculation – FRE 602
55	21	56	1	Form: Calls for speculation – FRE 602
56	3	56	8	Form: Calls for speculation – FRE 602
56	11	56	21	Form: Calls for speculation – FRE 602
56	24	57	9	Form: Calls for speculation – FRE 602
57	12	57	14	Form: Calls for speculation – FRE 602
58	5	58	7	
59	9	59	14	(Include: 59:15 – 59:17)
81	9	82	1	
87	17	87	20	Form: Calls for speculation – FRE 602; assumes facts not in evidence – FRE 401, 402 & 403
87	24	88	16	Form: Calls for speculation – FRE 602; assumes facts not in evidence – FRE 401, 402 & 403
108	16	108	20	
119	7	119	16	Form: Calls for speculation – FRE 602; assumes facts not in evidence – FRE 401, 402 & 403; misstates testimony – FRE 403 & 603
119	19	120	7	Form: Calls for speculation – FRE 602; assumes facts not in evidence; vague – FRE 401, 402 & 402; misstates testimony – FRE 403 & 603
120	10	120	17	Form: Calls for speculation – FRE 602; assumes facts not in evidence, vague – FRE 401, 402 & 403; misstates testimony – FRE 403 & 603
120	22	121	17	Form: Vague – FRE 401, 402 & 403; misstates testimony – FRE 403 & 603
130	7	130	8	
130	19	131	19	Subject to Motion in Limine
135	24	137	17	Form: Calls for speculation – FRE 602; assumes facts not in evidence – FRE 401, 402 & 403; subject to Motion in Limine

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137	21	137	25	Form: Calls for speculation – FRE 602; assumes facts not in evidence – FRE 401, 402 & 403; subject to Motion in Limine
141	15	141	17	Form: Calls for speculation – FRE 602; assumes facts not in evidence – FRE 401, 402 & 403; subject to Motion in Limine
141	20	142	3	Form: Calls for speculation – FRE 602; assumes facts not in evidence – FRE 401, 402 & 403; subject to Motion in Limine
142	6	142	13	Form: Calls for speculation – FRE 602; assumes facts not in evidence – 401, 402 & 403; subject to Motion in Limine
144	3	144	15	Form: Calls for speculation – FRE 602; assumes facts not in evidence – FRE 401, 402 & 403; subject to Motion in Limine
145	19	145	22	Form: Assumes facts not in evidence – FRE 401, 402 & 403
145	25	146	24	Form: Misstates testimony (as to 145:25-146:13) – FRE 403 & 603
146	7	146	10	Form: Misstates testimony – FRE 403 & 603
146	13	146	13	Form: Misstates testimony – FRE 403 & 603 (Include: 146:19 – 147:3; 148:15 – 148:20; 149:2 – 149:6)
151	6	151	11	Form: Calls for speculation – FRE 602; assumes facts not in evidence – FRE 401, 402 & 403; subject to Motion in Limine
152	7	152	13	Form: Assumes facts not in evidence – FRE 401, 402 & 403
152	20	153	21	
170	25	171	1	Form: Vague – FRE 401, 402 & 403
171	4	171	8	
171	11	171	12	Form: Vague – FRE 401, 402 & 403
171	14	171	15	Form: Vague – FRE 401, 402 & 403
171	17	171	17	Form: Vague – FRE 401, 402 & 403
196	23	197	4	
201	24	202	21	Form: Calls for speculation – FRE 602; vague - FRE 401, 402 & 403
202	24	203	10	Form: Calls for speculation – FRE 602; assumes facts not in evidence, vague – FRE 401, 402 & 403; misstates testimony – FRE 403 & 603

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203	13	204	5	Form: Vague – FRE 401, 402 & 403; misstates testimony - FRE 403 & 603
204	8	205	21	Form: Vague – FRE 401, 402 & 403; misstates testimony - FRE 403 & 603 9 (Include: 205:22 – 206:11)
211	24	212	12	
212	20	213	23	(Include: 213:24 – 214:15)
216	21	218	6	Form: Calls for speculation – FRE 602; assumes facts not in evidence – FRE 401, 402 & 403; misstates testimony – FRE 403 & 603 (Include: 230:4 – 230:8)

**Deposition of Robert J. Stratman, Jr., October 22, 2013:**

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17	17	17	25	Misleading, clarification of answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 27:23-28:2)
24	1	24	11	
24	16	24	19	Misleading, clarification of the timing of the previous answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 24:20-21)
24	22	25	9	
26	9	26	24	
28	17	28	21	
30	14	30	19	Misleading, testimony clarifying the use of a legal term in question and clarifying answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 131:13-24, 132:2-19)
32	18	32	25	
43	6	43	12	Misleading, clarification of quotation from exhibit not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 43:13-44:16)
49	5	49	6	

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49	9	49	20	
50	18	51	5	
52	11	52	12	
52	17	52	24	Form: Lacks foundation - FRE 401, 402, 403, & 602 (as to 52:23-24)
53	2	53	3	Form: Lacks foundation - FRE 401, 402, 403, and 602
53	5	53	8	
55	11	55	17	Misleading, clarification to quotation from exhibit not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 55:18-20, 55:23-24, 56:5-19)
58	25	59	9	
59	17	59	24	
60	3	60	15	
60	23	61	11	Misleading, clarification to quotation from exhibit not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 61:12-24)
107	13	107	21	Irrelevant - FRE 401 & 402
107	25	108	15	Irrelevant, misleading, prejudicial – FRE 401, 402, & 403
108	20	109	3	Irrelevant, misleading, prejudicial – FRE 401, 402, & 403
109	10	110	2	Irrelevant, misleading, prejudicial – FRE 401, 402, & 403

**Deposition of Matthew Tocci, July 12, 2013:**

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18	4	18	10	Misleading, clarification to answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 18:21-19:11)
20	19	21	3	
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74	8	74	13	
84	1	84	7	
89	12	89	14	
89	18	89	24	Misleading, clarification to answer and subsequent line of questioning not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 89:25-90:4)
98	12	98	16	
99	11	100	6	
100	20	100	23	
100	25	101	1	
101	3	101	9	
101	12	101	14	
103	13	103	16	
103	20	104	15	
104	21	104	25	Misleading, clarification to answer and subsequent line of questioning not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 105:1-106:5)
133	8	133	11	
143	24	144	9	
144	11	144	25	
145	1	145	12	
145	17	145	23	
146	7	147	2	
147	5	147	10	Misleading, clarification to answer and subsequent line of questioning not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 147:11-147:18)
148	3	148	7	
148	23	150	7	
154	23	155	17	Misleading, clarification to answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 155:18-156:2)
194	7	194	22	Misleading, clarification of number provided in previous answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 194:23-195:21)
214	13	215	1	Irrelevant, Likely to onfuse the jury, Prejudicial –



Start		Stop		
Page	Line	Page	Line	
				FRE 401, 402, &403 (as to 214:19-215:1)
216	11	216	18	Irrelevant, Likely to confuse the jury, Prejudicial - FRE 401, 402, &403
216	21	217	1	Irrelevant, Likely to confuse the jury, Prejudicial – FRE 401, 402, &403
220	17	221	1	Irrelevant, Likely to confuse the jury, Prejudicial - FRE 401 402, &403
221	11	221	19	Irrelevant, Likely to confuse the jury, Prejudicial 401 402, &403
234	15	234	18	Vague, Calls for speculation – FRE 401, 402, & 403
234	25	235	1	Vague, Calls for speculation – FRE 401, 402, & 403

**Deposition of Jeffrey T. Whiteman, May 21, 2013:**

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10	12	10	16	
13	16	13	22	
22	9	22	13	Misleading, clarification to answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 22:14-22:24)
24	18	24	19	
24	21	25	10	
25	14	25	21	
26	12	26	20	
27	19	27	22	
31	7	31	11	
31	13	31	25	
33	4	33	19	
33	24	33	25	
34	7	34	10	
35	21	36	3	
37	14	37	15	
37	19	37	25	
38	1	38	8	Misleading, clarification of source of quotation not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6)

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				(Include 38:9-11)
38	21	39	11	
39	24	42	2	
42	16	42	25	
43	6	43	7	
43	20	43	25	
44	1	44	5	
45	8	45	9	
45	13	46	20	Misleading, clarification of answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 46:21-22, 46:25-47:10)
47	11	47	12	
47	16	47	17	Misleading, clarification of time communication was sent - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 47:23-48:4)
48	11	48	20	
49	9	50	11	
50	23	50	25	Misleading, clarification of answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 51:1-9, 51:11)
52	15	52	20	Foundation - FRE 401, 402, 403, 602 (as to 52:19-20)
52	22	53	2	Foundation - FRE 401, 402, 403, & 602 (as to 52:22-23)
54	3	54	6	
54	24	55	9	Foundation - FRE 401, 402, 403, & 602 (as to 55:8-9)
55	13	55	15	Foundation - FRE 401, 402, 403, & 602
55	20	55	22	Foundation - FRE 401, 402, 403, & 602 (as to 55:20)
56	1	56	12	
57	3	57	7	Misleading, clarification of answer not designated FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 57:8-59:7)
63	3	63	11	
64	4	64	6	Misleading, clarification of answer not designated FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 65:17-66:1)

Start		Stop		
Page	Line	Page	Line	
66	9	66	10	
66	14	67	1	Misleading, clarification of answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 67:2-12)
105	24	105	25	
106	3	106	6	
113	14	113	15	
113	19	114	7	
114	11	114	12	
114	20	114	23	Misleading, clarification of question not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 114:24-25, 115:1)
115	2	115	2	
128	24	128	25	
129	4	129	9	
129	12	129	15	
129	18	129	25	
130	3	130	5	
130	7	130	11	
130	15	130	19	
131	21	132	20	Misleading, response clarified by previous answer - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 131:1-18)
137	11	137	12	
137	16	138	4	
138	7	138	17	
140	11	141	5	
172	2	172	3	
172	7	172	16	Misleading, clarification of answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 172:17-173:3)
176	19	177	12	Misleading, clarification of answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 177:13, 177:15-23)
214	23	214	24	
215	3	215	17	
216	10	216	10	Mischaracterizes the document - FRE 401, 402, &

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				403
216	13	216	24	Mischaracterizes the document - FRE 403 (as to 216:13-17) or, in the alternative, Misleading, correction of mistake in question not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 303:25-304:25)
217	5	217	19	
217	21	217	21	
219	19	219	22	Misleading, full answer not designated - FRE 106, Fed. R. Civ. Pro. 32(a)(6) (Include 219:23-220:7)
225	8	225	9	
225	13	226	10	
226	13	226	15	Hearsay – FRE 802
226	17	227	9	Hearsay – FRE 802
227	11	227	17	Hearsay – FRE 802
229	2	229	5	
229	9	230	2	Hearsay – FRE 802 (as to 229:19-24), Assumes facts not in evidence, vague – FRE 401, 402, & 403 (as to 230:1-2)
230	4	230	4	Assumes facts not in evidence, vague – FRE 401, 402, & 403
230	22	231	10	Mischaracterizes the document - FRE 403 (as to 230:22-231:1), Lack of foundation – FRE 401, 402, & 403 (as to 231:8-10)
231	12	231	13	Lack of foundation – FRE 401, 402, & 403
232	6	232	11	
292	9	292	11	Vague, calls for speculation – FRE 401, 402, & 403
292	14	292	19	Vague, calls for speculation – FRE 401, 402, & 403
305	1	305	6	

## **II. Testimony designated by Defendants in Response to Plaintiff's Designations**

**Deposition of Stanley Altman, May 24, 2013:**

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36	13	36	23

**Deposition of Mike Martin, June 4, 2013**

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203	17	204	1

**Deposition of Gregory M. Nolan, September 18, 2013:**

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32	10	32	11
32	14	32	17
39	18	40	8
96	4	96	6
100	9	100	13
109	2	109	20
111	17	112	11
181	23	181	25
189	16	189	22
190	10	190	18

**Deposition of Matthew Tocci, July 12, 2013:**

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22	16	23	10

Dated: February 13, 2014.

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**CERTIFICATE OF FILING AND SERVICE**

I hereby certify that on February 13, 2014, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to all registered counsel of record.

/s/ Olivia D. Howe  
Olivia D. Howe